

SN 10/682,372



Responsive to Action
dated 04/27/2007

ATTACHMENT C
Amendments to the Drawings

Attached hereto are 13 Replacement Sheets (Figures 1-9). It is noted that there are no changes to the drawings, but that they are being filed to provide the Office with formal drawings.

**ATTACHMENT A**
Remarks

Claims 1-17 and 19-43 are pending in the present application. By this Amendment, Applicants have amended claims 14-16, 19, 20, 25 and 28; canceled claim 18; and added new claims 30-43. Applicants respectfully submit that the present application is in condition for allowance based on the discussion which follows.

In the Office Action, it was alleged that a complete reply to this Office Action must include cancellation of non-elected claims or an appropriate action, citing 37 C.F.R. § 1.144 and M.P.E.P. § 821.01. Applicants respectfully submit that neither 37 C.F.R. § 1.144 nor M.P.E.P. § 821.01 requires Applicants to cancel the non-elected claims. Moreover, Applicants reserve the right to request rejoinder upon allowance of the elected claims. Accordingly, Applicants respectfully request that the request that the non-elected claims be canceled or an appropriate action be taken be withdrawn.

Further, in the Office Action, new corrected drawings were requested, in compliance with 37 C.F.R. § 1.121(d). By this Amendment, Applicants have submitted formal drawings, replacing the previous set. The drawings do not include new matter.

Claims 14-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kenan et al. (U.S. Patent No. 6,788,966) (hereinafter "Kenan").

By this Amendment, Applicants have amended claim 14 to include subject matter previously recited in claim 18 to thereby more clearly recite one aspect of the present method for diagnosing a diseased condition of the skin. As amended, claim 14 now recites placing an electrical conducting probe against a skin surface of a subject, wherein a first electrode and a second electrode of a plurality of electrodes are spaced a first distance from each other and a first electrode and a third electrode are spaced a

second distance from each other. An electrical current is passed through the electrodes to obtain a value of skin impedance, where the electrical current is separately passed between the first and second electrodes and between the first and third electrodes to obtain at least a first value of impedance and at least a second value of impedance. Using reference data, it is determined whether the impedance values indicate a diseased condition.

The present method, as recited in claim 14, is not anticipated by Kenan, as Kenan discloses a completely different system which operates or performs a method completely different than that of the present diagnostic method. In particular, the Kenan system includes an electrode head comprising a reference electrode 22 (Kenan, Figure 1 and column 9, lines 55-65 and column 17, lines 16-19). Stimulation currents are applied at the reference electrode 22, which traverse through the body to the electrode head. Thus, all skin layers perpendicular to the examined skin surface will be measured when obtaining the impedance image or map. Based on the disclosure of Kenan, such an image or map will be rather unspecific.

Further, it has been known since 1926 (Fricke H., Morris S., "The electric capacity of tumors of the breast," J. Cancer Res. 1926, 10:340-376) that cancer tissue is different than normal tissue, as seen by electrical parameters which have been attributed to, for example, different water content and different vascularity. While it is possible to see the shape of a skin tumor using the device described in Kenan, the user must first know that the examined skin area actually is a tumor. Therefore, unlike in the present method, which is used to diagnose the presence of a tumor, in Kenan, one must

know a tumor exists in order to use its device. Therefore, Kenan fails to teach or in any way make obvious a method for diagnosing the presence of a tumor.

Moreover, Kenan, in column 7, lines 4-10, states that a method includes the step of identifying a suspected skin lesion. In fact, any skin lesion, for example, excema, toxic or allergic reactions, urticaria infection or other disease, even local diabetic skin degradation, would yield images of altered impedance relative to unaffected areas. Thus, the diagnostic probe system of Kenan does not itself identify a suspected skin lesion. To the contrary, one must independently identify a skin lesion. Accordingly, the diagnostic probe of Kenan fails to teach or in any way make obvious the present diagnostic method.

Furthermore, in Kenan, the impedance is measured at each spike to obtain the impedance map (see, e.g., Kenan, column 6, lines 24-32). Specifically, the Kenan probe is placed against a tissue surface such that the at least one sensing element penetrates the tissue surface. Conversely, in the method, according to the amended claim 14, the spikes are not individually addressed, but used in clusters. Each electrode comprises a number of spikes to facilitate and improve a micro-invasive contact between the bar electrodes (three electrodes) and the living epidermis--without destroying the stratum corneum by tape stripping or grinding the tissue. As will be clear to one of ordinary skill in the art, the measurements are performed between respective electrodes of the probe, enabling a depth variation which, in turn, provides for several projections through the tissue being tested, which enhances the information collection with respect to morphological changes.

An additional distinction between Kenan and the present invention is that Kenan uses each spike-electrode as a sensing element, resulting in natural variations present in the skin which influence the impedance map and even dominate the measurements during testing. However, using the present method, this problem is avoided, since each electrode comprises a plurality of spikes, thereby measuring over a larger surface area.

Based on the foregoing, Applicants respectfully submit that claims 14-17 and 19-29 are not anticipated by Kenan and, therefore, respectfully request that the rejection to these claims be withdrawn.

Finally, by this Amendment, Applicants have added new apparatus claims 30-43, corresponding to method claims 14-17, 19-27 and 29, respectively. Further, Applicants respectfully submit that apparatus claims 30-43 correspond to the elected Group II claims, corresponding to diagnosing conditions of the skin. Further, in accordance with 35 U.S.C. § 121, M.P.E.P. § 802.01 and 37 C.F.R. § 1.141, the claims of 30-43 should be examined with claims 14-17 and 19-27, as the present application does not contain more than one "independent and distinct" invention claimed. The term "independent" means unrelated and that there is no relationship between two or more inventions claimed (M.P.E.P. § 802.01(i)). However, two or more inventions are related, and thus not independent, if they are disclosed as connected in at least one design structure or method of use (M.P.E.P. § 802.01(ii)).

Further, Applicants respectfully submit that the apparatus of claim 30 includes the allowable subject matter of the method recited in claim 14 and, therefore, claims 30-43 should be examined and found allowable, as including novel and non-obvious subject matter as discussed above with regard to claim 14.

In view of the foregoing, Applicants respectfully submit that the present application is in condition for allowance.

END REMARKS